Supreme Court, U.S.
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ALEXANDER L. STEVAS
CLERK

No. 84-63

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellee.

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOTION TO AMEND INSUFFICIENT JURISDICTIONAL STATEMENT BY DELETIONS AND ADDITIONS

Frederick L. Jerry
(Appearance In Propria Persona)
Address 21331 Kipling St.
Oak Park, Michigan 48237
Telephone: (313) 5447736

BEST AVAILABLE COPY

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In The

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-vs-

United State District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

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APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JURISDICTION

On March 25, 1982 Appellee was granted Summary Judgment Against Appellant.

On March 26, 1984 Motion To Amend Finding And Judgment, was denied.

The Jurisdiction Of This Court is invoked pursuant to 28 U.S.C. Section 1252.

MOTION TO AMEND INSUFFICIENT JURISDICTIONAL STATEMENT BY DELETIONS AND ADDITIONS

TO THE DISCRETION OF THE COURT

To The Judge:

NOW COMES Frederick L. Jerry, Appellant and bring this Motion To Amend Insufficient Jurisdictional Statement By Deletions And Additions, pursuant to Rules Of The Supreme Court Rule 42 and para. 4, and Federal Rules Of Civil Procedure Rule 15(a) and (b), Rule 8(c) and (e), and Rule 60(b) and (1) and (2) and Title 28 U.S.C. Section 1651 and Title 28 U.S.C. Section 1653; on the grounds the granting of this motion will make clear the relief sought; on the grounds the granting of this motion will make known the existing probable jurisdiction to the Court, and thereby avoid an miscarriage of Justice.

I. STATEMENT OF CASE

On July 25, 1984 or thereabout Appellant's Jurisdictional Statement, that is insufficient in its plead, and contain errors, was docket No. 8463.

March 28, 1984 to correct the instant case defective jurisdiction under Title 28 U.S.C. Section 1331, Appellant filed Motion To Set Aside Summary Judgment, and "Notice (docket No. 49)" that contain amended jurisdiction statement under 28 U.S.C. Section 1653, in Exhibit 1A & 2C and No. 1 and No. 2, attached hereto as Appendix 1A & 1C & A & B. The Court's issued 2Order" for hearing of said Motion is attached hereto as Appendix AA.

To correct the District Court's lack Of Jurisdiction over subjectmatter in propria persona, Appellant filed Motion under Title 28 U.S.C. Section 1653 "To Set Summary Judgment Aside(docket en-

try No. 64) pursuant to Fed. Rules Of Civ. Pro. Rule 60(b) and (1) and (2), thereby all the above mention motions, "Probable Jurisdiction" exist.

The provision of Federal Rules Of Civil Procedure and its Statutes are as follows:

> Rule 15(a)Provides means to cure a defective pleading.
>
> Rule 60(b) provides: the Court may relieve a party or his legal representative from final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2)Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial. Rule (b) does not limit the power of a court "To set aside a judgment for fraud upon the Court," 28 U.S.C. Section 1655;
> Title 28 U.S.C.Section 1653 expressly provides that "defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate Court.

The Court issued an "Order" cancelling hearing date of "Motion To Set Aside Summary Judgment," by reason Appellant had filed his Appeal April 24, 1984.

A copy of said "Order" is attached hereto as Appendix BB.

II REASONS FOR GRANTING MOTION

Pursuant To Federal Rules Of Civil Procedure Rule 60(b) and (1) an d (2), the newly discovered evidences in all the above mention docket entries must be entered in the instant case No. 82-70212.

Further said case remand back to District Court will enable its errors to be corrected by an new hearing for a full disclosure of all vestige of fraud in said case for fraud on the Court, pursuant to said Rule 60(b) and 28 U.S.C. Section 1655 and thereby enable all filed motions to be simultaneously determine by the District Court; thereby cure all Allegations of defective jurisdiction over

all subject matters, that are necessary in the Court's judicature, in its sound judgment to achieve ends of justice entrusted to it; As well as its essential necessity to prevent Appellant's case from being technically dismissed in the Court Of Appeals and thereafter in the Supreme Court, If Appellant pursuit his cause progressively through the ordinary judicial procedure, without waiting to have his case tried upon the charges it was establish. Further without the refer of case No. 82-70212 back to District Court would be a grave miscarriage of Justice and make it totally impossible for Appellant to reap the benefits of the above mention motions after the Court's determination. Still further where the subject concerns the enforcement of the Rules which by law it is the Duty of the Court to formulate and put in force. And to en-

force that obligation all courts have the power under Title 28 U.S.C Section 1651 (a).

LII. RELEVANT AUTHORITIES

Several Federal Courts have relied upon the statute 28 U.S.C. Section 1653 to allow Rule 15(a) amendments to cure different types of deficient statements of subject matter jurisdiction at various stages of the action; Wherein a case, a plaintiff was allowed to amended the complaint to add party plaintiffs, some of whom were citizens of the state as was one defendant. See Barrow Dev. Co. V. Fulton Ins. Co., C.A.9th, 1969, 418 F.2d 316.

It has been establish by the Court, If party cause had defective jurisdiction and had filed appropriate correction motion, the Court would remand cause

back for further consideration. See Mrs, Mattie Sue Baldwin -vs- Mrs. Mary Picken, (1962) 208 F. Supp. 899; Grant Smith -vs- Fisher Pierce Company, and Richard W. Kennedy, 248 F. Supp. 815 (1965); Security Company -vs- Federal Mutual Implement And Hardware Insurance Company 204 F. Supp 207 (1960)

CONCLUSION

For all the above reason, Appellant prays that this Honorable Court his Motion To Amend Insufficient Jurisdictional Statement By Delections And Additions; and grant him leave to file declaratory amended pages No. 23 & 24 and 31 of the Jurisdictional Statement filed June 23, 1984 and docket July 25, 1984 No. 84-63 or thereabout, and attached hereto as Appendix 23 XX, & 24 XX-1, and Appendix 31 C-1, with all

new added amendments underlined; Appellant further prays and request that he be granted leave to file the said declaratory amended pages 23 & 24 and 31 as they appear in the hereto attached Appendix 23 XX, & 24 XX-1 and Appendix 31 C-1 upon The Honorable Anna Diggs Taylor and General Motors Corporation and others, for the purpose of alleging the matters of facts aforesaid as they appear therein.

Probable Jurisdiction Should Be Noted*

Respectfully submitted

Frederick Kiss*

(Appearance in propria persona)

Address 21331 Kipling Street

Oak Park Michigan 48237

Telephone: (313) 5447736

*Appearance in propria persona of record.

No. 84-63

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

FREDERICK L. JERRY, Appellant,

-vs-

United States District Judge, The Honorable Anna Diggs Taylor, Appellee,

and

General Motors Corporation, Hydra-Matic Division, Appellant

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AFIDAVIT OF FREDERICK L. JERRY

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

I, Frederick L. Jerry, Appellant being first duly sworn deposes and says as follows:

I have a personal knowledge of the matters in this Affidavit and an compet-

ent to testify as to those matters:

On or about 20th day of January Frederick L. Jerry (hereinafter-Appellant) filed the instant Suit No. 82-70212 that is an out growth of wrongs committed during tthe trial of his original Suit No. 80-72246; wherein Appellant like-wise fail to establish neither said Suit under Title 28 U.S.C. Section 1331 or his appearance in propria persona, under Title 28 U.S.C. Section 1654. Such failure of Appellant created defective jurisdiction in both said Suits.

2. That said original Suit No. 80-72246 was summarily dismissed January 28, 1981 in favor of Appellee.

3. That the instant Suit No. 82-70212 brought to vacate Appellee's granted judgment of January 28, was summarily dismissed March 25, 1982. Thereafter Appellant filed Motion To Amend Findings And

Judgment, April 2, 1982; said Motion was denied entry March 26, 1984.

4. That Appellant on March 28, 1984 filed "Motion To Set Aside Summary Judgment," and on April 5, 1984 filed "Notice," that contained jurisdiction amendments to correct said defective jurisdiction in both said Suits.

5. That on April 18, 1984 the Court issued an "Order" for an oral hearing of Appellant's Motion To Set Aside Summary Judgment," filed March 28, 1984.

6. That on March 24, 1984 Appellant filed an Appeal to The Supreme Court Of The United States, in the District Court.

7. That on April 27, 1984 the Court issued an "Order" cancelling said oral Hearing of Appellant's Motion.

8 8. Appellant contend without refer of his Suit No. 82-70212 back to District Court or an "Leave To Amend Defective

Jurisdiction," would make it impossible for him to receive his rightfully due benefits of the motions filed or the relief granted by law.

Frederick L. Jerry-Appellant

Address 21331 Kipling Street

Oak Park, Michigan 48237

Subscribed and sworn to before me
this 13th day of August 1984

Deborah L. Miller

Notary Public
My Commission Expires:

DEBORAH L. MILLER
Notary Public, Wayne County, Mich.
Acting in Oakland County, Mich.
My Commission Expires April 30, 1985

APPENDIX 1A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY, Case No. 82-70212

Plaintiff,

-vs- Hon. Anna Diggs Taylor

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendant,

SUIT TO SET ASIDE AND VACATE JUDGMENT OBTAINED BY FRAUD ON THE COURT, AND FOR DAMAGES

JURISDICTION

This Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages, was filed January 20, 1982. The Jurisdiction of this Court is Invoked under Title 28 U.S.C. Section 1331 and Title 28 U.S.C. Section 1654

This Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damage, is brought pursuant to Federal Rules Of Civil Procedure Rule 60(b)(3), Rule 52(b), Rule 59(b), Rule 15(a) and (c), under Title 28 U.S.C. Section

APPENDIX 2A

1655, and Title 28 U.S.C. Section 1471; NOW COMES Plaintiff and states as follows:

1. Plaintiff charge Defendant did not dutifully notify him before fraudulent obtainment of summary judgment, January 28, 1981.

2. Plaintiff charge Defendant with fraud upon the Court with with willful, wanton and malicious intent to subvert the administration of Justice; thereby caused the Court to error in granting the Defendant's Summary Judgment January 28, 1981, by deceiving the Court to believe Plaintiff had been duly notified of the charges and Hearing date of January 26, 1981, in Defendant's Motion For Summary Judgment.

3. Plaintiff charge Defendant with fraud in obtaining Summary Judgment, of January 28, 1981 by reason Defend-

APPENDIX 3 A

ant did not notify Plaintiff of its Motion For Summary Judgment until February 20, 1981; Thereby with willful, wanton and malice, denied said Plaintiff the opportunity to present the merits of his case.

4. Plaintiff charge Defendant with willful, wanton and malicious forethought in attempt to conceal and delay Notice of

Certified No. P17 0644259

APPENDIX 2C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY

Kipling Street

Oak Park, Michigan 48237
Plaintiff,

-vs-

Case No. 80-72246

Judge: Anna Diggs Taylor

UAW * LOCAL 735

48055 Michigan Ave 48187 &

GMC-HYDRA-MATIC DIVISION,

YPSILANTI MICHIGAN 48197

PLAINTIFF'S SUIT FOR RECISSION AND DAMAGES

JURISDICTION

The Jurisdiction Of This Court Is Invoke Under Title 28 U.S.C. Section 1331 and Title 28 U.S.C. Section 1654

NOW COMES Plaintiff, in support of suit for Recission and Damages states as follows:

APPENDIX 3C

1. This Suit at law is brought in pursuant to Section 301 of the Labor Management Relation Act 29 U.S.C. Section 185, in Breach of Duty and Breach of Collective Bargaining Agreement, for Recission And Damages.

2. Plaintiff charge: UAW-Local 735 and GMC-Hydra-Matic Division with Fraud, in negoiating unlawful Settlement of 1-17-19 or thereabout, in violation of legal document of August 29, 1978, filed by Plaintiff at time he filed protest grievance to discharge of August 30, 1978 to prevent such irresponsible and harmful Settlement of 1-17-79 without Plaintiff's signature.

3. Plaintiff charge: UAW-Local 735 in Breach of Duty and GMC-

(continue page 3)

Frederick L. Jerry
Plaintiff and acting Atty

Certified No. P17 0644259

APPENDIX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

28 U.S.C. Section 1:863

The Jurisdiction Of This Court is Invoke under Title 28 U.S.C. Section 1331

Request- To Court Clerk- FOR ENTRY OF ~~xxx~~ APPEARANCE OF PARTY IN PROPRIA PERSONA

PURSUANT TO title 28 U.S.C. Section 1654; Federal Rules Of Civil Procedure Rule 5 (a), Rule 79(a)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,
Civil Case No. 80-72246
Plaintiff,
Hon. Anna Diggs Taylor
-vs-

UAW - LOCAL 735 and
General Motors Corporation,
HYDRA-MATIC DIVISION,

Defendants

TO: Clerk of the United States District Court For The Eastern District Of Michigan Southern Division.

APPENDIX A1

You are hereby request to enter my appearance in Propria Persona as Plaintiff in the above-entitled action.

Frederick L. Jerry

Address 21331 Kipling St.
Oak Park, Michigan 48237

Dated: June 20, 1980

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

28 U.S.C. Section 1:863

The Jurisdiction Of This Court is Invoked under Title 28 U.S.C. Section 1331

Request- To Court Clerk- FOR ENTRY OF APPEARANCE OF PARTY IN PROPRIA PERSONA

PURSUANT TO Title 28 U.S.C. Section 1654; Federal Rules Of Civil Procedure Rule 5 (a), Rule 79(a)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,
Civil Case No. 82-70212
Plaintiff,
Hon. Anna Diggs Taylor

-vs-

GENERAL MOTORS CORPORATION,
HYDRA-MATIC DIVISION,

Defendant

TO: Clerk of the United States District Court For The Eastern District Of Michigan Southern Division.

APPENDIX B1

You are hereby requested to enter my Ap pearance in Propria Persona as Plaintiff in the above-entitled action.

Frederick L. Jerry

Address 21331 Kipling St.

Oak Park, Michigan 48237

Dated January 20, 1982

APPENDIX AA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Frederick L. Jerry,

Plaintiff(s)

Case No. 82-70212

-vs-

General Motors Corp. , etal

Defendant(s)

ORDER SETTING BRIEFING SCHEDULE AND DATE FOR ORAL ARGUMENT

Plaintiff having filed a motion to set aside summary judgment and the court wishing to hear oral argument on said motion,

It is hereby ORDERED that any and all response(s) to said motion be filed with the Clerk of the Court on or before April 16, 1984 , and that any reply brief, s should the movant desire to file a reply brief, shall be filed with Clerk of the Court on or before April 20, 1984 .

If the non-moving party does not file a respobse to said motion by the date specified above, or obtain from the court an extension of time within which to file said response,

APPENDIX AA1

after written motion and for just cause, sajd party shall not be permitted to argue, and said motion shall be considered unopposed.

The parties shall appear in Room 226 U.S. Courthouse, Detroit, Michigan, and shall be heard on oral argument on April 30, 1984 at 9:00 AM .

Both the moving party and the party opposing the motion should be prepared to submit to the court their proposed orders at the conclusion of oral argument.

IT IS SO ORDERED.

Anna Diggs Taylor
Anna Diggs Taylor
U.S. District Judge

Dated: Apr 18, 1984

APPENDIX BB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK L. JERRY,

Plaintiff,

-vs- Civil Case No. 82-70212

GENERAL MOTORS CORP.,
HYDRA-MATIC DIVISION,

Defendant.

_____/

ORDER

Plaintiff having filed a motion to set aside summary judgment, the court having scheduled the motion for oral argument defendant thereafter having filed a response to the motion, and the court now wishing to decide the motion on the basis of the papers filed and without oral argument.

IT IS HEREBY ORDERED that the motion be decided on the papers without oral argument and that the previously set hear-

APPENDIX BB1

ing date be and is cancelled.

ANNA DIGGS TAYLOR
ANNA DIGGS TAYLOR

Dated: APR 26 1984

on matters not sought in the original Suit No. 80-72246? (2) Did Appellant have a cause against Appellee General Motors Corporation?

Appellant also say with emphasis: There appear to have been a purpose designed scheme of deception on the part of the Appellee in this case No. 82-70212 that greatly parallel incidences in Root Refining Co. -vs- Universal Oil Products Co.---American Safty Table Co. -vs- Singer Sewing Machine Co. 169 F.2d 514 from the "Get Go" (beginning to end).

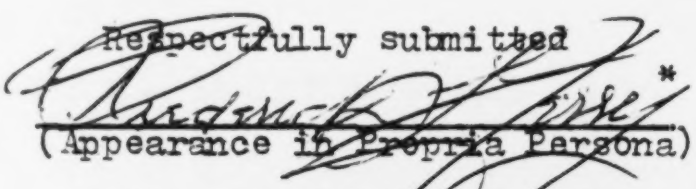
WHEREFORE, and for all the above reasons Frederick L. Jerry, Appellant prays and request that this Honorable Court set aside Judgment granted by the District Court unto the Appellee General Motors Corporation, and remand cause back with orders for an expeditious Hearing of Ap-

APPENDIX XX-1

pellant's Suit To Set Aside And Vacate Judgment Obtained By Fraud On The Court, And For Damages; Appellant further prays and request that his "Motion To Set Aside Summary Judgment (C.C.R. E.N. 47)," and "Notice" filed April 5, 1984 (C.C.R. E.N. 49), and "Motion To Set Summary Judgment Aside(C.C.R. E.N. 64)" be granted entry in Suit No. 82-70212. And whatever other relief as may be just.

Probable jurisdiction should be noted*

Respectfully submitted



(Appearance in Propria Persona) *

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Oak Park, Michigan 48237

Telephone: (313) 5447736

* Appearance in propria persona of record.

APPENDIX C-1

"Order" denying 52(b) motion).

This appeal is taken pursuant to Title 28 U.S.C. Section 1252 and Title 28 U.S.C. Section 2101(b) and Title 28 U.S.C. Section 1653 and Federal Rules Of Civil Procedure Rule 60(b) and (1) and (2).

Frederick L. Jerry
(Counsel for Appellant

Address 21331 Kipling Street

Oak Park, Michigan 48237

Telephone: (313) 5447736

Date:

COPY 6 - PLAINTIFF'S COPY